

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSE GUADALUPE PEREZ-
FARIAS, JOSE F. SANCHEZ,
RICARDO BETANCOURT, and all
other similarly situated persons,

Plaintiffs,

v.

GLOBAL HORIZONS, INC., *et al.*,

Defendants.

NO. CV-05-3061-RHW

**ORDER DENYING GROWER
DEFENDANTS' POST
JUDGMENT MOTION FOR
RECONSIDERATION**

Before the Court is the Grower Defendants' Post Judgment Motion for Reconsideration, ECF No. 1331. The motion was noted for hearing; however, the Court has reviewed the briefing and has concluded that oral argument is not necessary. *See* L.R. 7(h)(3)(B)(iii).

The Grower Defendants ask the Court to reconsider the summary finding of liability that resulted in an automatic and mandatory judgment of approximately two million dollars against the Grower Defendants. The Grower Defendants argued that they should be allowed to present evidence that they are not liable under Wash. Rev. Code § 19.30.200 for all of the acts and omissions of Defendant Global Horizons. The Grower Defendants assert that the Court should reconsider whether equitable relief should have been imposed in lieu of punitive damages for wholly unaffected class members. Specifically, the Grower Defendants argue that not all class members were entitled to receive statutory damages because not all class members were "aggrieved."

**ORDER DENYING GROWER DEFENDANTS' POST JUDGMENT
MOTION FOR RECONSIDERATION ~ 1**

1 “Although Rule 59(d) permits a district court to reconsider and amend a
2 previous order, the rule offers an ‘extraordinary remedy, to be used sparingly in
3 the interests of finality and conservation of judicial resources.’” *Kona Enterprises,*
4 *Inc. V. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). The Ninth Circuit has
5 instructed that a Rule 59(e) motion should not be granted, except in three
6 situations: (1) the court is presented with newly discovered evidence; (2) the court
7 committed clear error or the initial decision was manifestly unjust; or (3) if there is
8 an intervening change in the controlling law. *Id.* (citing *389 Orange Street*
9 *Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999). “A Rule 59(d) motion may
10 *not* be used to raise arguments or present evidence for the first time when they
11 could reasonably have been raised earlier in the litigation.” *Id.*

12 Notwithstanding the complicated procedural history of this case, the
13 analysis of Defendants’ arguments begins with the Grower Defendants’ first
14 Motion for Reconsideration. That motion was filed on July 20, 2007, shortly after
15 the judgment on the unopposed Motion for Partial Summary Judgment was
16 entered. In that motion, the Grower Defendants argued that Wash. Rev. Code §
17 19.30.170(2) provided for discretionary statutory damages, rather than mandatory
18 damages. The Grower Defendants never asked the Court to reconsider the finding
19 that Global Horizons violated the Washington Farm Labor Contractors Act, and
20 the Court relied on this when it granted the motion for reconsideration and
21 concluded that the amount of statutory damages was discretionary. Even though
22 this conclusion was in error, the Ninth Circuit’s ruling does not open the door for
23 the Grower Defendants to relitigate the issue of liability. The Grower Defendants
24 had the opportunity to raise these arguments earlier in the litigation and did not. At
25 this stage in the litigation, it would be a miscarriage of justice to relitigate the
26 issue of the Grower Defendants’ liability and whether statutory damages should be
27 awarded.

28 The Grower Defendants have not presented the Court with newly

1 discovered evidence and have not shown that the Court committed clear error or
2 the judgment in this case is manifestly unjust. The Grower Defendants had ample
3 opportunity to defend against this action. Moreover, the Washington Supreme
4 Court decision is not an intervening change in controlling law that requires the
5 Court to reconsider its decision regarding the Grower Defendants' liability.

6 Accordingly, **IT IS HEREBY ORDERED:**

7 1. The Grower Defendants' Post Judgment Motion for Reconsideration,
8 ECF No. 1331, is **DENIED**.

9 2. The Amended Judgment entered on March 27, 2013, ECF No. 1326, is
10 the final judgment.

11 **IT IS SO ORDERED.** The District Court Executive is directed to enter
12 this Order and to provide copies to counsel.

13 **DATED** this 22nd day of May, 2013.

14
15 *s/Robert H. Whaley*
16 **ROBERT H. WHALEY**
United States District Court

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